

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Telephone Number Portability)
Policies)
)
Cost Recovery for Long-Term)
Number Portability)

CC Docket No. 95-116

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COMMENTS

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SUMMARY

MCI states that each carrier should bear its own costs of internal network LNP implementation. MCI shows that all local service providers participating in local number portability should share in the recovery of LNP costs in a manner that is proportionate to each carrier's share of the customer base in the portability service area. MCI recommends that the Commission adopt MCI's proposal under which shared costs would be recovered through several charges: (1) a service establishment charge, (2) an NPAC/SMS access charge, (3) charges for miscellaneous LNP-related functions, and (4) a porting carrier allocation charge. Finally, MCI urges the Commission to treat LNP costs in a manner similar to treatment of expanded interconnection costs; and, alternatively, not to accord exogenous cost treatment under the price cap rules for LNP implementation costs.

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COMMENTS

The Federal Communications Commission (FCC or Commission) has invited comments regarding cost recovery mechanisms for long-term local number portability (LNP) in the captioned docket.¹ MCI Telecommunications Corporation and MCIMetro (collectively MCI) respectfully submit these comments in the captioned docket.

MCI states that shared LNP costs should be recovered in a manner that is proportionate to each carrier's share of the customer base in the area subject to LNP. Shared costs would be recovered through several charges: (1) a service establishment charge, (2) a database access charge, (3) charges for miscellaneous LNP-related functions, and (4) a porting carrier allocation charge.

MCI also states that each carrier should bear its own carrier-specific costs of implementing LNP. MCI agrees with the Commission that indirect, carrier-specific costs should be borne by each carrier. And, it argues that LNP costs should

¹ Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-286, released July 2, 1996 (Further Notice).

not be treated as exogenous costs under the price cap rules.

A. MCI Agrees with the Commission's General Cost Recovery Principles

The Commission tentatively concludes that three types of costs are involved in providing long-term service provider portability, namely: (1) costs incurred by the industry as a whole, such as those incurred by the third-party administrator to build, operate, and maintain the databases; (2) carrier-specific costs directly related to providing number portability, such as the costs to purchase the switch software to implement number portability; and (3) carrier-specific costs not directly related to number portability (para. 208). MCI supports the Commission's tentative conclusion.

In determining the cost recovery mechanism for currently available number portability measures -- whether interim or long-term -- the Commission sets forth principles with which any competitively-neutral cost recovery mechanism must comply. The competitively-neutral cost recovery mechanism: (1) should not give one service provider an appreciable, incremental cost advantage over another provider; and (2) should not have a disparate effect on the ability of competing providers to earn a normal return (para. 210). MCI agrees that these principles adopted for interim number portability should also be used for recovery of costs for long-term number portability.

Based on these essential principles, MCI supports cost

recovery as discussed below.

B. Costs of Facilities Shared by All Carriers Should Be Recovered in Proportion to Each Carrier's Share of the Customer Base in the LNP Service Area

The Commission tentatively concludes that the number portability costs of facilities shared by all carriers fall into three subcategories: (1) non-recurring costs, including the development and implementation of the hardware and software for the database; (2) recurring (monthly or annually) costs, such as the maintenance, operation, security, administration and physical property associated with the database; and (3) costs of uploading, downloading and querying number portability database information (para. 216). MCI agrees with this conclusion.

The overarching principle of number portability cost recovery -- contained in Section 251(e)(2) of the Telecommunications Act of 1996 -- is that costs should be borne by all carriers on a "competitively-neutral basis." In order to satisfy this requirement, all local service providers participating in local number portability should share in the recovery of LNP costs in a manner that is proportionate to each carrier's share of the customer base in the portability service area. Competitive neutrality and proportionate cost recovery recognize that all customers will benefit from LNP because it is essential for meaningful local exchange competition and competition will result in lower prices and

better and higher quality services for all customers of local service.

Therefore, MCI recommends the following cost recovery elements for shared costs: (1) a service establishment charge, (2) an Number Portability Administration/Service Management System (NPAC/SMS) access charge, (3) charges for miscellaneous LNP-related functions, and (4) a porting carrier allocation charge. The service establishment charge would consist of a non-recurring charge for each log-on identification assigned. Different charges may apply for first and additional identifications established. The service establishment charges would apply to all entities uploading and downloading information to or from the NPAC/SMS and should be priced at direct cost.

NPAC/SMS costs are common to all local service providers that import or export ported numbers to or from their networks (referred to as participating local service providers) and, to a lesser extent, to other carriers and entities that receive download broadcasts from the NPAC/SMS but are not involved in porting numbers.

The NPAC/SMS access charge would be a monthly recurring charge for each connection for the purpose of uploading and/or downloading information to or from the NPAC/SMS.² Different

² Downloads are broadcasts of information telling all network providers where particular ten-digit numbers reside. Uploads would be paid primarily by ILECs and CLECs that are porting numbers and thus modifying information.

rates should apply for different speeds and technologies to recognize the different costs associated with each. Monthly access charges should be priced at direct cost.

Miscellaneous charges related to local number portability would consist of separate charges for miscellaneous functions requested by NPAC/SMS users. For example, reports, interface testing, custom audits, and specialized downloads would constitute miscellaneous LNP functions. Rates for these functions will be generally set at direct cost.

MCI further recommends that the majority of SMS costs -- all costs not recovered through the charges described above -- should be recovered through a porting carrier allocation charge. This charge would be shared proportionately by all participating local service providers. The proportionate share may be calculated based on either: (1) each porting carrier's share of total working telephone numbers in portable NXXs; or (2) each porting carrier's share of total portable NXXs.³ The selection of allocation methods would be made by the incumbent LECs during the 24-month period following initial LNP implementation. At the end of the 24th month, allocation would be based on each carrier's share of working telephone numbers in portable NXXs. This is appropriate because after two years, the industry would have experience with ported numbers and, by then, all networks would likely be

³ NXX is the central office code portion of the 10-digit telephone number; in the example (301) 950-1212, "950" would be the NXX.

porting customers in and out.

The Commission also tentatively concludes that recovery of costs associated with shared databases should be allocated in proportion to each carrier's total gross telecommunications revenues, minus charges paid to other carriers (para. 213). MCI first discusses its proposal for cost recovery and then shows why the Commission's approach is less desirable.

MCI believes that allocating costs in proportion to total working telephone numbers rather than total gross revenues is superior on both equity and efficiency grounds. As the Commission correctly recognizes, there is a "public goods" aspect to portions of the costs of developing and implementing number portability (NPRM, Footnote 609). In other words, implementation of number portability is not an individual consumption decision. Rather, once implemented, number portability can be "consumed" by one user without diminishing the "consumption" of this benefit by other users. Such joint consumption introduces a problem of matching the amount each customer pays to the true value received by that customer. The government's inability to induce customers to reveal truthfully their valuation means that a perfectly efficient cost-collection mechanism cannot be designed. Therefore, the choice of the recovery mechanism requires the Commission to look at "second-best" efficiency and equity considerations.

From the standpoint of efficiency, it is preferable to recover costs in proportion to telephone numbers rather than

total revenues. The demand for telephone numbers, which is used mostly in fixed proportions with dial tone, is much more inelastic than the demand for telecommunications services, as a whole.⁴ To the extent a "tax" on gross telecommunications revenues is flowed through into the rates of all telecommunications services, the deadweight loss from the decreased consumption caused by the "tax" will be greater than from a "tax" that raises the same revenue imposed on the use of telephone numbers. In this particular case, moreover, the Commission can look to final product demand elasticity to set rates, because this mechanism can be implemented in a procompetitive manner.

From an equity standpoint, cost recovery in proportion to working telephone numbers is also superior. It is reasonable to presume that each consumer's benefit from number portability is roughly proportional to the number of telephone numbers that the consumer uses. By contrast, consumers of all telephone services (who would be taxed on an ad valorem basis under the Commission's proposed mechanism) would not benefit in proportion to the dollars they spend on these services. For example, a high volume user of international telephone service would not benefit any more from number portability than a high volume user of local telephone service, who didn't make international calls. Yet, under the proposed mechanism,

⁴ *Telecommunications Demand in Theory and Practice*,
Lester D. Taylor, Kluwer Academic Publishers, 1994.

that heavy international caller could easily pay 100 times more for number portability. In sum, the principle of "taxing" the greatest beneficiaries of a public good is an important reason to recover these implementation costs evenly across all users of working telephone numbers.

The Commission asks whether incumbent LECs should be able to recover their portion of the costs of facilities shared by all carriers in providing long-term number portability from their end users or from other carriers (para. 215). This would be inappropriate because other carriers -- such as CLECs and interexchange carriers (IXCs) -- will already be paying for their portion of the NPAC/SMS through the charges discussed above. Since CLECs and IXCs do not have the option of recovering their portion of the costs from the incumbent LECs (ILECs), allowing ILECs to recover NPAC/SMS costs from CLECs effectively would force competitive LECs to bear all the costs of number portability. This would defeat the intention of the 1996 Act and would be contrary to the FCC's own principles that cost recovery should not give one service provider an appreciable, incremental cost advantage over another provider and also should not have a disparate effect on the ability of competing providers to earn a normal return.

MCI recommends that the states should determine LNP cost recovery and that the FCC should establish cost allocation and basic recovery guidelines. Those guidelines would state that LNP costs cannot be recovered from other carriers. It would

Take the "competitively-neutral" principle of the 1996 Act full circle to allow carriers to pass on to their competitors their costs of implementing LNP. The FCC's guidelines should also state that there should be no mandatory surcharges. A surcharge is inappropriate in the case of LNP implementation because costs per customer will not be comparable; in other words, a carrier with fewer customers will pay more per customer to implement LNP. Thus, imposing a uniform surcharge would be unfair to CLECs and their customers.

C. Each Carrier Should Bear its Own Carrier-Specific Costs Related Directly to Local Number Portability

All carriers will incur costs specific to the deployment and usage of number portability databases. The Commission proposes two approaches for recovery of these costs, one of which is that carriers would bear their own costs of deploying number portability in its network (para. 221). MCI agrees with this proposal because it correctly reflects the fact that LNP is an essential network upgrade and, like all such enhancements, it should be borne by a carrier and its customers. This is consistent with the treatment of costs for implementation of Signaling System 7 (SS7) and Advanced Intelligent Network (AIN) technologies.

The Commission again asks whether incumbent LECs should be able to recover these costs from either end users or other carriers (para. 222). As stated above, incumbent LECs should not be able to recover these costs from other carriers because

competitive LECs and their customers would effectively end up bearing all the costs of number portability deployment.

The Commission seeks comment on whether it should mandate a particular mechanism by which carriers may recover their costs and it identifies two alternatives: (1) allowing carriers the flexibility to choose the manner in which to recover from customers; and (2) requiring carriers to recover costs through end user surcharges. MCI believes it is not necessary for the Commission to make specific cost recovery determinations. First, with respect to CLECs, MCI supports the recommendation that they individually should determine their own cost recovery mechanisms. Furthermore, CLECs should not be required to recover network implementation costs in any specific manner from their end users, such as a surcharge on their end users' bills.

With respect to ILECs, MCI supports generally leaving the determinations of recovery of ILEC cost recovery to the state commissions, which would implement cost recovery in accordance with federal guidelines discussed above, i.e., no recovery of costs from other carriers and no mandatory surcharges.

D. Indirect, Carrier-Specific Costs Should Not Be Recovered as LNP Costs

The third broad cost category enumerated by the Commission consists of carrier-specific costs not directly related to number portability (para. 208). That category consists of costs such as costs of general network upgrades

necessary to implement a database method, which costs are not eligible for recovery as LNP costs. The Commission acknowledges that this is the case in its tentative conclusion that the competitively-neutral standard contained in section 251 does not apply to cost recovery of carrier-specific, non-number-portability costs, such as upgrades to SS7 or AIN technologies (para. 209).

MCI agrees with the Commission's proposal that these costs should be borne by individual carriers as network upgrades (para. 226). Many of the costs that will be incurred by the ILECs are related to introduction of competition and are not LNP-specific merely because they are occurring simultaneous to LNP implementation. For example, costs of upgrading SS7 capabilities or adding intelligent network or AIN capabilities are related to general provision of services, and should not be recoverable as costs of local number portability. LNP changes are incremental to these broader network modifications that will allow the ILECs to compete in the changed market environment. The Commission correctly notes that installation of these functions will enable the incumbent LEC to compete with the offerings of other carriers (para. 227-28) and, therefore, it would be inappropriate to allow their recovery as number portability costs.

In a sense, costs similar to these will be incurred by all carriers, since competitive LECs will install advanced capabilities in their new networks or modify existing networks

to accommodate LNP.

E. Price Cap Carriers Should Not Receive Exogenous Cost Treatment for LNP Costs

The Commission asks how price cap carriers should be permitted to recover costs (para 230). It tentatively concludes that price cap carriers should be permitted to treat as exogenous costs any carrier-specific, number portability costs they incur, but that carriers should not be permitted to treat as exogenous any carrier-specific, non-portability costs.

Exogenous cost treatment is not appropriate because LNP costs are not being recovered through existing rates. Exogenous treatment would increase the existing price cap indexes and would give the incumbent LECs the opportunity to increase rates for services that do not face competition.

The Commission should treat this service the way it treated expanded interconnection. In that proceeding, the LECs' rates for expanded interconnection were set based on their costs and those rates were excluded from price caps, on the grounds that that service was a bottleneck service unlike the other access services included in the price cap baskets.⁵

⁵ Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking, CC Docket No. 91-141, 7 FCC Rcd 7369 (1992), reconsidered 8 FCC Rcd 127 (1992), vacated in part and remanded sub nom. Bell Atlantic Corp. v. FCC, 24 F.3d 1441 (D.C. Cir. 1994); Second Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 7341 (1993); Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd 7374 (1993).

Placing LNP service in a basket with other services would allow the LECs to raise the LNP charges and lower other charges to their end user customers, thereby instituting a price squeeze on potential competitors who must pay the LNP rates and compete for those end-user customers.

If the Commission nevertheless decides to treat LNP as a price cap service, LNP should be treated as a new service under the price cap rules. Using the new services price cap rules, new rate elements would be created for LNP. Carriers would base the LNP rates on cost of the service, and the rates would be included in the price cap index in the following year.

The Commission also asks whether LNP services should be placed in a new price cap basket or an existing basket (para. 230). If LNP is treated as a price cap service, it must be placed in a separate basket when it is included in the price cap indexes. Otherwise, the LECs would have the ability to institute the price squeeze described above.


F. Conclusion

Therefore, in view of the foregoing, MCI asks the Commission to conclude that each carrier should bear its own costs of internal network LNP implementation. MCI shows that all local service providers participating in local number portability should share in the recovery of LNP costs in a manner that is proportionate to each carrier's share of the

customer base in the portability service area. MCI thus recommends that the Commission adopt the proposal contained herein under which shared costs would be recovered through several charges: (1) a service establishment charge, (2) an NPAC/SMS access charge, (3) charges for miscellaneous LNP-related functions, and (4) a porting carrier allocation charge. Finally, MCI urges the Commission to treat LNP costs in a manner similar to treatment of expanded interconnection costs; and, alternatively, not to accord exogenous cost treatment under the price cap rules for LNP implementation costs.

Respectfully submitted,

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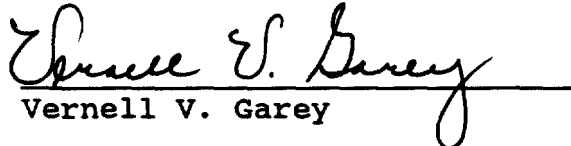
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CERTIFICATE OF SERVICE

I, Vernell V. Garey hereby certify that the foregoing "COMMENTS", CC Docket No. 95-116 was served this 16th day of August, 1996, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:


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